

## **REMARKS/ARGUMENTS**

This letter is responsive to the Office Action dated February 2, 2004. This Response is accompanied by a Petition for a three month Extension of Time. Accordingly, it is respectfully submitted that this Response is timely filed.

By this Response, the applicant has canceled 15 claims, without prejudice, namely claims 10, 23, 29, 37, 39 – 46, 49, 52 and 53 and has inserted 32 new claims, namely claims 57 – 89. Accordingly, the application now contains 8 independent claims and 74 claims. Prior to this amendment, the application contained 5 independent claims and 55 claims. Accordingly, the additional claims fees of \$600.00 dollars (\$258.00 for the three additional independent claims and \$342.00 for 19 additional claims) is to be charged or credit any overpayment to our deposit account no. 02-2095

In preparing this Response, the applicant noted that Figure 21 contained an error. In particular, Figure 21 included reference numeral 214. As shown in Figure 5, reference numeral denotes the open end of bin 32 (see page 17, lines 7 – 9). Accordingly, reference number 214 has been deleted from Figure 21. No new matter has been added.

In paragraph 1 of the detailed action, the Examiner indicated that the term "an radial" in line 1 of claim 16 should be amended to "a radial". The applicant has made the required correction. This amendment to claim 16 is made to correct a grammatical error in the claim and, accordingly, does not relate in any way to a rejection of the claim as not being patentable.

In paragraphs 3 and 4 of the detailed action, the Examiner rejected claims 12- 18 under 35 U.S.C. 112, 2<sup>nd</sup> paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. In particular, the Examiner pointed out that claim 1 includes the term "transporting means" whereas claim 12 includes the term "apertures". The applicant has amended claim 12 to specify that the transporting means comprises apertures. Accordingly, the applicant respectfully submits that claim 12 now properly depends from claim 1.

In paragraphs 5 – 7 of the detailed action, the Examiner rejected claims 39 – 42 and 46 under 35 U.S.C. 101 as claiming the same invention as claims 14 - 16 and 20 of prior United States Patent No. 6,440,197. In particular, in paragraph 7 of the detailed action, the Examiner expressed an opinion as to the meaning of specific excerpts from those claims. The applicant has elected to cancel, without prejudice, claims 39 – 46. The applicant, by canceling these claims, does not in any way admit that it agrees with the statement in paragraph 7 of the detailed action by the Examiner. The applicant has elected in this application to instead seek protection for additional new claims which have been inserted herein.

In paragraph 9 of the detailed action, the Examiner rejected claims 25 and 29 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of United States Patent No. 6,440,197. In the Office Action, the Examiner had indicated that claim 37 contained allowable subject matter but was objected to as being dependent upon a rejected base claim. By this response, the applicant has amended claim 25 by inserting therein limitations from claim 37. Accordingly, the applicant respectfully submits that claim 25 is now allowable. The applicant has cancelled claim 29 without prejudice.

In view of the amendment of claim 25, the applicant has made consequential changes to the claims dependent thereon. In particular, as claim 25 now claims a vacuum cleaner, the dependent claims have been amended so that the preamble refers to a vacuum cleaner as opposed to a separator. In addition, claim 34 has been amended to correct a grammatical error, namely by changing "comprising" to "comprises". In view of the forgoing, the applicant respectfully submits that claim 25 and the claims dependent thereon are now allowable over the art of record.

In amending the claims, the applicant does not in anyway admit that it agrees with the comments by the Examiner in paragraph 9 of the Office Action as to the meaning of limitations in the claims.

In paragraph 10 of the Office Action, the Examiner rejected calms 47 and 49 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 27 of United States Patent No. 6,440,197. In the Office Action, the Examiner indicated that claim 53 contained allowable subject matter but was objected to as being dependent upon a rejected base claim. The applicant has amended claim 47 by inserting therein limitations from claim 53. Claim 53 has accordingly been cancelled without prejudice. Accordingly the applicant respectfully submits that claim 47, and the claims dependent thereon, are now in condition for allowance.

By amending claim 47, the applicant specifically states that it has not, in any way, concurred with the assessment of the Examiner as to the meaning of the phrases from claims which are set out in paragraph 10 of the detailed action.

By this Response, the applicant has also elected to cancel claims 49 and 52 without prejudice. In addition, the applicant has corrected a grammatical error in claim 54, namely by changing "comprising" to "comprises".

In paragraph 12 of the Office Action, the Examiner rejected claims 1, 3, 5 – 9, 12, 16, 19, 20, 22, 24, 25, 28, 36 and 38 under 35 U.S.C. 102(b) as being clearly anticipated by Baillie. In the Office Action, the Examiner indicated that claim 10 contained allowable subject matter but was objected to as being dependent upon a rejected base claim. By this Response, the applicant has cancelled claim 10 without prejudice and has

amended claim 1 by inserting therein limitations from claim 10. Accordingly, the applicant respectfully submits that claim 1, and the claims dependent thereon, are now allowable over the art of record.

In view of the amendment of claim 1 to claim a vacuum cleaner as opposed to a separator, the dependent claims have been amended so that the preamble of these claims refer to a vacuum cleaner as opposed to a separator.

In preparing this Response, the applicant has also noted grammatical errors in the language of some of the claims. In particular, in claims 14 and 15, the words "length of the" have been deleted as the edges define the axis as opposed to the "length of the edges" defining the access. Further, claim 17 has been amended by changing "separating member" to "separation means". The phrase "separation means" has an antecedent in claim 1.

In the Office Action, the Examiner indicated that claim 23 contained allowable subject matter but was objected to as being dependent upon a rejected base claim. Accordingly, the applicant has cancelled claim 23 without prejudice and has amended claim 20 by inserting therein limitations from claim 23. Accordingly, the applicant respectfully submits that claim 20 is now in condition for allowance.

By this Response, the applicant has inserted new claims 57 – 89. Claims 57 and 67 are independent claims which specify, *inter alia*, that the vacuum cleaner includes at least one baffle. In the application, the applicant specified that the construction may contain one or more baffles. For example, the applicant refers the Examiner to page 18, line 17 of the application. Accordingly, no new matter has been incorporated in the claims.

New independent claims 80 and 85 specify, *inter alia*, that the cyclone separator is removable from the vacuum cleaner. The application commencing at page 25, line 6 discusses how the cyclone separator may be emptied and provides support for this limitation. No new matter has accordingly been added.

In, for example, dependent claim 83, the applicant has referred to the cyclone separator including a door. In support of this, the applicant refers the Examiner to page 26, lines 12 – 14 of the application wherein it is specified that a door may be provided to assist in emptying chamber 50. Accordingly, no new matter has been added.

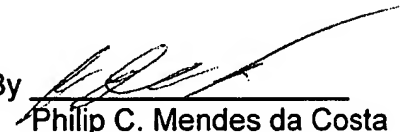
Appl. No. 10/030,108  
Amdt. dated July 30, 2004  
Reply to Office action of February 2, 2004

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

BERESKIN & PARR

By



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